

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LEROY WILLIAMS,

Plaintiff,

v.

DR. STEINWEINDER,

Defendants.

No. C09-5806 RJB/KLS

REPORT AND RECOMMENDATION
Noted For: May 24, 2010

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. The Court is advised by Plaintiff Leroy Williams that he no longer wishes to pursue this action. Dkt. 7. Accordingly, the undersigned recommends that this action be dismissed pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

DISCUSSION

On December 28, 2009, Mr. Williams filed an application to proceed *in forma pauperis* and proposed civil rights complaint. Dkt. 1. On January 7, 2010, the clerk advised Mr. Williams that his *in forma pauperis* application was deficient because he failed to provided an updated trust account statement. Dkt. 2. On March 3, 2010, the court directed Mr. Williams to submit a copy of his prison trust account statement showing the balance and activity for the six month preceding the filing of his proposed complaint or pay the full filing fee. Dkt. 4. On April 6, 2010, Plaintiff provided a copy of his trust account statement showing the balance and activity

1 for a one month period. Dkt. 5. On April 15, 2010, the court again directed Plaintiff to submit a
2 six month trust account statement on or before May 7, 2010 or to show cause why he cannot.
3 Dkt. 6. On April 26, 2010, Plaintiff filed a letter to the Clerk of Court, stating "I am requesting
4 voluntary to dismiss above case without prejudice." Dkt. 7.

5 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

6 [A]n action may be dismissed by the plaintiff without order of court (i) by filing a
7 notice of dismissal at any time before service by the adverse party of an answer or
8 of a motion for summary judgment, whichever first occurs

9 No adverse party has yet been served in this action.

10 Plaintiff has asked this court to dismiss his case without prejudice. Dkt. 7. The
11 undersigned recommends that Mr. Williams's letter be construed as a request for voluntary
12 dismissal of this action.

13 *CONCLUSION*

14 The Court should dismiss this action without prejudice.

15 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
16 Procedure, the parties shall have fourteen (14) days from service of this Report and
17 Recommendation to file written objections. See also Fed. R.Civ.P. 6. Failure to file objections
18 will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140
19 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the
20 matter for consideration on **May 24, 2010**, as noted in the caption.
21

22 DATED this 4th day of May, 2010.

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24 
25 Karen L. Strombom
26 United States Magistrate Judge